

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

**COPY**

THE CITY OF GALENA, JoDAVIESS COUNTY,  
ILLINOIS,

Petitioner,

v.

CHICAGO, CENTRAL & PACIFIC RAILROAD  
COMPANY and THE BURLINGTON NORTHERN  
and SANTA FE RAILWAY COMPANY,

Respondents.

Petition for approval of the acquisition of real estate in JoDaviess  
County by exercising the power of eminent domain.

**RECEIVED**  
SEP 16 2002

Illinois Commerce Commission  
RAIL SAFETY SECTION

T02-0064

**ANSWER OF RESPONDENT  
CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY**

Now comes respondent, Chicago, Central & Pacific Railroad Company ("CCP") by its  
attorney, Michael J. Barron, Jr. and for its answer to the petition states as follows:

**GENERAL ALLEGATIONS**

1. Respondent, CCP admits that the City of Galena is a municipal corporation duly  
organized and existing under the laws of the State of Illinois. Further answering, respondent  
admits the existence of the statutory enactments referred to in paragraph 1 of the petition but  
denies that the aforesaid enactment authorizes petitioner to obtain respondent's property through  
the power of eminent domain.

2. Respondent admits the existence of the statutory enactment referred to in  
paragraph 2 of the petition but denies that the aforesaid enactment authorizes petitioner to  
acquire respondent's property through the power of eminent domain.

**DOCKETED**

3. Respondent admits the existence of the statutory enactment referred to in paragraph 3 of the petition but denies that the aforesaid enactment authorizes petitioner to acquire respondent's property through the power of eminent domain.

4. Respondent does not have knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the petition.

5. Respondent does not have knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the petition.

6. Respondent admits the existence of the statutory enactment referred to in paragraph 6 of the petition but denies that the aforesaid enactment authorizes petitioner to acquire respondent's property by eminent domain.

### **COUNT I**

1-6 For its answer to paragraphs 1 – 6 of Count I of the petition, respondent reincorporates and restates its denials, answers and other averments to paragraphs 1 – 6 of the petition as if fully set forth herein.

7. Respondent admits that it has an interest in the real property described in Exhibit 1 attached to the petition. Respondent denies the remaining allegations contained in paragraph 7 of Count I of the petition.

8. Respondent admits that no agreement has yet been reached as to the compensation to be paid to respondent for the acquisition by petitioner of respondent's real property. Respondent denies the remaining allegations contained in paragraph 8 of Count I of the petition.

9. Respondent admits the allegations contained in paragraph 9 of Count I of the petition.

10. Respondent admits the allegations contained in paragraph 10 of Count I of the petition.

11. Respondent does not have knowledge or information sufficient to form a belief as to petitioner's allegations contained in paragraph 11 of Count I of the petition, except that it denies any conclusion as to the value of the property contained in paragraph 11 of Count I to the petition.

12. Respondent admits the allegations contained in paragraph 12 of Count I of the petition.

13. Respondent denies the allegations contained in paragraph 13 of Count I of the petition.

14. Respondent denies the allegations contained in paragraph 14 of Count I of the petition.

15. Respondent admits that petitioner, in paragraph 15 of Count I of the petition, is requesting that the Illinois Commerce Commission authorize petitioner to proceed with eminent domain proceedings.

## **COUNT II**

Inasmuch as the allegations contained in Count II of the petition are not directed against this respondent and no relief is requested against this respondent therein, this respondent makes no answer to Count II of the petition.

## **COUNT III**

1-3 For its answer to paragraphs 1 – 3 of Count III of the petition, respondent reincorporates and restates its denials, answers and other averments to paragraphs 1 – 3 of the petition as if fully set forth herein.

4. Respondent admits that it has an interest in the real property described in paragraph 4 of Count III to the petition. Respondent denies the remaining allegations contained in paragraph 4 of Count III of the petition.

5. Respondent admits that no agreement has yet been reached as to the compensation to be paid to respondent for the acquisition by petitioner of respondent's real property. Respondent denies the remaining allegations contained in paragraph 5 of Count III of the petition.

6. Respondent admits the allegations contained in paragraph 6 of Count III of the petition.

7. Respondent admits the allegations contained in paragraph 7 of Count III of the petition.

8. Respondent admits the allegations contained in paragraph 8 of Count III of the petition.

9. Respondent does not have knowledge or information sufficient to form a belief as to petitioner's allegations contained in paragraph 9 of Count III of the petition, except that it denies any conclusion as to the value of the property contained in paragraph 9 of Count III of the petition.

10. Respondent denies the allegations contained in paragraph 10 of Count III of the petition.

11. Respondent admits that petitioner, in paragraph 11 of Count III of the petition, is requesting that the Illinois Commerce Commission authorize petitioner to proceed with eminent domain proceedings.

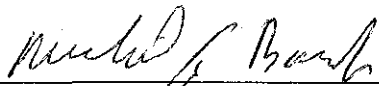
### AFFIRMATIVE DEFENSES

1. Petitioner has not yet negotiated with respondent CCP to the point where it can be determined that no agreement as to compensation is possible. Therefore, petitioner has not established a jurisdictional basis for eminent domain proceedings.

Wherefore, respondent, Chicago, Central & Pacific Railroad Company, prays that the Illinois Commerce Commission deny all relief requested by petitioner, specifically deny petitioner authority to proceed with a condemnation action against respondent, Chicago, Central & Pacific Railroad Company, and dismiss Counts I and III of the petition with prejudice.

Dated at Chicago, Illinois this  
13<sup>th</sup> day of September, 2002.

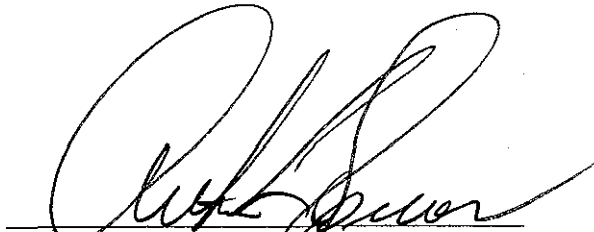
Respectfully submitted  
CHICAGO, CENTRAL & PACIFIC  
RAILROAD COMPANY

By:   
Michael J. Barron, Jr.  
Counsel for Chicago, Central &  
Pacific Railroad Company  
Canadian National/Illinois Central  
455 North Cityfront Plaza Drive  
Chicago, IL 60611-5317  
(312) 755-7943

VERIFICATION

STATE OF ILLINOIS       )  
                                      )  
COUNTY OF COOK        )

Arthur L. Spiros, being duly sworn, deposes and says that he is Real Estate Consultant for the Chicago, Central & Pacific Railroad Company and that he has read the foregoing Answer and knows the facts asserted therein, and that the same are true as stated.

  
\_\_\_\_\_  
Arthur L. Spiros  
Real Estate Consultant  
Chicago, Central & Pacific  
Railroad Company

SUBSCRIBED AND SWORN TO  
before me this 13<sup>TH</sup> day of  
September, 2002.

  
\_\_\_\_\_  
Notary Public



**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

THE CITY OF GALENA, JoDAVIESS COUNTY,  
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CHICAGO, CENTRAL & PACIFIC RAILROAD  
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**NOTICE OF FILING**

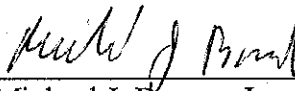
Mr. Philip F. Jensen  
Hammer, Simon & Jensen  
303 N. Bench Street  
P.O. Box 270  
Galena, IL 61036

Mr. Michael L. Sazdanoff  
Kenneth J. Wysoglad & Associates  
118 S. Clinton Street, Suite 700  
Chicago, IL 60661

PLEASE TAKE NOTICE that we have this 13th day of September, 2002, mailed for filing with the Illinois Commerce Commission, Chicago, Central & Pacific Railroad Company's Answer to the Petition in the above-referenced matter, a copy of which is hereby served upon you.

CHICAGO, CENTRAL & PACIFIC  
RAILROAD COMPANY

By



Michael J. Barron, Jr.  
Counsel for Chicago, Central & Pacific  
Railroad Company  
Canadian National/Illinois Central  
455 North Cityfront Plaza Drive  
Chicago, IL 60611-5317  
Phone: (312) 755-7954  
Fax: (312) 755-7669  
ARDC 6228809

**CERTIFICATE OF SERVICE**

I, MICHAEL J. BARRON, JR., an attorney, certify that on behalf of Chicago, Central & Pacific Railroad Company, I served the foregoing Answer of Chicago, Central & Pacific Railroad Company upon those made a party to this proceeding by enclosing copies of the foregoing in envelopes addressed to those parties as set forth below, postage prepaid, and depositing the envelopes in the United States Mail at 455 North Cityfront Plaza Drive, Chicago, Illinois on the 13th day of September, 2002.

  
\_\_\_\_\_

Michael J. Barron, Jr.

**Service List :**

Mr. Philip F. Jensen  
Hammer, Simon & Jensen  
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Galena, IL 61036

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